

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

DEBBIE ROHN; and DEAN ROHN,

Plaintiffs,

v.

VIACOM INTERNATIONAL, INC.;  
ZAZZLE, INC.; CAFEPRESS, INC.;  
ETSY, INC.; GILT GROUPE, INC.;  
GOODIES FOR KIDDIES;  
JOURNEYS FOR KIDZ;  
KMART HOLDING CORP.;  
KOHL'S CORPORATION; NEXTAG, INC.;  
SEARS, ROEBUCK & CO.;  
SHOPZILLA, INC.; and TARGET  
CORPORATION;

Defendants.

Case No. 1:14-cv-00083-JTN

Hon. Janet T. Neff

Oral Argument Requested

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Thomas H. Blaske (P26760)  
John F. Turck IV (P67670)  
BLASKE & BLASKE, P.L.C.  
Attorneys for Plaintiffs  
500 South Main Street  
Ann Arbor, Michigan 48104  
(734) 747-7055  
[thb@blaske.com](mailto:thb@blaske.com)  
[jt4@blaske.com](mailto:jt4@blaske.com)

John Di Giacomo  
Attorney for Defendant  
Revision Legal, PLLC  
227 Lake Avenue  
Traverse City, MI 49684  
(231) 714.0100  
[john@revisionlegal.com](mailto:john@revisionlegal.com)

Eric Misterovich  
Attorney for Defendant  
Revision Legal, PLLC  
1101 Broad Street  
Suite 315  
St. Joseph, MI 49095  
(269) 281.3908  
[eric@revisionlegal.com](mailto:eric@revisionlegal.com)

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**PRE-MOTION CONFERENCE REQUEST RE MOTION TO DISMISS**

NOW COMES Goodies for Kiddies, by and through its attorneys Revision Legal, PLLC, and for its Pre-Motion Conference Request for Defendant's Motion to Dismiss states the following:

Pursuant to Fed. R. Civ. P. 12(b)(6), a plaintiff must allege facts that, if proven, would establish that the plaintiff is entitled to the relief sought. Plaintiffs have failed to state a claim upon which relief can be granted because Plaintiffs have failed to allege that Defendant Goodies for Kiddies has used "Bubble Guppies," "Guppies," or any colorable imitation thereof, as an indicator of the origin or source of Defendant's goods or services. Defendant has never made a trademark use of either "Bubble Guppies" or "Guppies" so as to meet the prerequisites of a trademark infringement cause of action. Even if Defendant had made a trademark use of either "Bubble Guppies" or "Guppies," Plaintiffs' claims are precluded as a matter of law by the first sale doctrine. Consequently, Defendant requests a Pre-Motion conference on Defendant's Motion to Dismiss, which will argue that Plaintiffs' Complaint must be dismissed as to Defendant Goodies for Kiddies.

    /JAD/      
John Di Giacomo  
Eric Misterovich  
227 Lake Avenue  
Traverse City, MI 49684  
Phone: (231) 714-0100  
Fax: (231) 714-0200  
Email: [john@revisionlegal.com](mailto:john@revisionlegal.com),  
[eric@revisionlegal.com](mailto:eric@revisionlegal.com)  
Attorneys for Registrant

**CERTIFICATE OF SERVICE**

I, John Di Giacomo, an attorney, hereby certify that I served a true and correct copy of this Pre-Motion Conference Request on counsel of record via the ECF electronic filing system on May 23, 2014.

\_\_\_\_\_/JAD/\_\_\_\_\_  
John Di Giacomo  
Eric Misterovich  
227 Lake Avenue  
Traverse City, MI 49684  
Phone: (231) 714-0100  
Fax: (231) 714-0200  
Email: [john@revisionlegal.com](mailto:john@revisionlegal.com),  
[eric@revisionlegal.com](mailto:eric@revisionlegal.com)  
Attorneys for Registrant